IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Amar Nath Harsh Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.1356/2006

DATE OF ORDER :: November 27, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. H.S.Shrimali, for the petitioner.
Mr. Ashok Upadhyaya, P.P.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks quashing of FIR No.104/2006, Police Station, Mahila Thana, Bikaner for the offences under sections 498-A, 406 and 323 I.P.C.

I have heard learned counsel for the petitioner and the Public Prosecutor. Carefully gone through first information report.

It is contended by the learned counsel for the petitioner

that earlier also the complainant filed a first information report being FIR No.299 dt. 24.9.2006 against the present petitioner for the offences of theft and cheating but the allegations in the earlier complaint regarding "Stridhan" has not been levelled and therefore, offence under section 406 I.P.C. by subsequent FIR cannot be said to be correct. So far offences under sections 498-A and 323 I.P.C. are concerned, it is contended that the complainant herself signed the document dt. 2.1.1994, wherein she has stated that she committed certain mistake. From the investigation diary, it appears that certain recoveries have been effected from the petitioner and keeping in view the investigation so far carried out by the police and the averments made in the FIR, in my view, it is not a fit case to quash the FIR. The FIR and the investigation diary disclose the commission of the cognizable offence.

The contention regarding subsequent FIR not being maintainable cannot be accepted in view of the decision of Hon'ble Supreme Court in Rameshchandra Nandlal Parikh vs. State of Gujarat and Anr., **(2006) 1 SCC 732** as the subsequent FIR is not in relation to the same offence/offences or occurrence. It was held by the Apex Court as under:

"The complaints which were filed in

respect of malfeasance and misfeasance within the jurisdiction of the Ahmedabad Police, were not in respect of the same cognizable offence or the same occurrence giving rise to one or more cognizable offences, nor were they alleged to have been committed in the course of the same transaction or the same occurrence as the ones alleged in First CR No.67 of 2001"

The petition is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-